

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

TIMOTHY E. PAYNE,

Movant,

v.

Civil Action No. 2:16-cv-05670
Criminal Action No. 2:11-cr-00026

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Cheryl A. Eifert, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

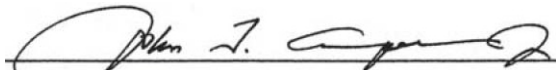
The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on December 15, 2017. The magistrate judge recommends "that the Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 be denied as untimely and that this action be dismissed, with prejudice, and removed from the docket of the [c]ourt." (ECF #77 at 5 (emphases and citations omitted).) The movant, represented by counsel, has not objected to the Proposed Findings and Recommendation.

Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendations be, and hereby is, adopted by the court;
2. The movant's motion to vacate, set aside, or correct his sentence be, and hereby is, denied as untimely; and
3. This action be, and hereby is, dismissed with prejudice and removed from the docket of the court.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and the United States Magistrate Judge.

ENTER: January 16, 2018


John T. Copenhaver, Jr.
United States District Judge